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April 19, 2005

Re: Joint Petition of the Towns of Swampscott and Franklin, D.T.E. 03-98

Dear Attorneys Shortsleeve and Rabinowitz:

I. Introduction and Procedural History

On October 15, 2003, the Towns of Franklin ("Franklin") and Swampscott ("Swampscott") (together, "Towns") filed a joint petition with the Department of Telecommunications and Energy ("Department"), pursuant to G.L. c. 164, § 34A.<sup>1</sup> The Towns sought resolution of disputes with Massachusetts Electric Company ("MECo" or "Company") arising from the decision of the Towns to purchase streetlighting equipment currently owned by MECo. On November 10, 2003, the Company filed a response to the joint petition. The Department docketed this matter as D.T.E. 03-98.

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<sup>1</sup> A municipality may acquire all or any part of the streetlighting equipment of the electric company in the municipality. G.L. c. 164, § 34A.

The Department held hearings on February 24, 25, March 8, and April 13, 2004. The Towns presented the testimony of six witnesses: Joseph Curran, president of Brite-Lite Electrical Company; William Fitzgerald, director of the Department of Public Works for Franklin, Andrew Maylor, town administrator for Swampscott; David C. Moody, vice-president of Stone and Webster Management Consultants; Jeffrey D. Nutting, town administrator for Franklin; and William Repoff, operations manager for the Town of Quincy. MECo presented the testimony of three witnesses: Theresa Burns, manager of distribution rates for National Grid USA Service Company; John B. Currie, accounting supervisor for National Grid USA Service Company; and Alex Mango, director of outdoor lighting for National Grid USA Service Company. Initial and reply briefs were filed by the Towns and the Company. The record consists of 102 exhibits.

## II. Summary of Issues in Dispute

When purchasing streetlighting equipment, municipalities are required “to compensate the electric company for its unamortized investment. . . in the lighting equipment owned by the electric company in the municipality as of the date the electric company receives notice of such exercise.” G.L. c. 164, § 34A. To arrive at purchase prices for the streetlighting equipment in Franklin and Swampscott of \$430,951.75 and \$209,450.67, respectively, MECo used a three-step process to determine its total unamortized investment in the streetlighting equipment in each town (Exhs. MECo-14; MECo-11).

First, MECo calculated the unamortized value of additions to streetlighting equipment (Exhs. MECo-43, at 2; DTE-1-1, Att. 1, 2).<sup>2</sup> Second, MECo determined the unamortized value of retired streetlighting equipment (*id.*).<sup>3</sup> Finally, MECo allocated the total unamortized

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<sup>2</sup> To calculate the reserve ratio, MECo took the sum of the annual depreciation rates in effect for streetlighting equipment from the year of addition to the time of purchase (Exh. MECo-46, at 3-4). MECo then calculated the amount depreciated by multiplying the reserve ratio by the gross plant investment (Exhs. MECo-43, at 3; DTE-1-1, Att. 1, 2). Next, MECo subtracted the amount depreciated from the gross plant investment to determine the unamortized value of each addition (*id.*). MECo followed these steps even when the unamortized value was negative (*i.e.*, the streetlighting plant was in-service longer than the estimated useful life upon which the depreciation rates are based) (Exhs. MECo-43, at 4; DTE-1-1, Att. 1, 2). The unamortized value of each addition was added together to derive the total unamortized value of additions to streetlighting equipment at the time of purchase (Exhs. MECo-43, at 3; DTE-1-1, Att. 1, 2).

<sup>3</sup> MECo determined the unamortized value of retired streetlighting equipment in the same (continued...)

value of each town's streetlighting equipment to all plant, both public and private, to determine a per-unit price (Exh. MECo-47, at 7; DTE-1-1, Att. 1, 2). The total purchase price for each town was determined based on the number of streetlighting units that the town wished to purchase, multiplied by the per-unit price (Exhs. MECo-47, at 7; MECo-46, at 2-8).

The Towns dispute the following aspects of MECo's calculations of total unamortized investment: (1) the treatment of streetlighting plant in service prior to 1963 and retired prior to 1964; (2) the calculation of accumulated depreciation on brackets and foundations placed in service before 1980 and 1983, respectively; (3) the rate used to calculate depreciation prior to 1971; and (4) the allocation of unamortized investment between streetlighting equipment used by the Towns and streetlighting equipment used by private customers (Towns' Petition at 1-9). Each issue is discussed below.

### III. Treatment of Streetlighting Plant in Service Before 1963 and Retirements Before 1964

#### A. Summary of MECo's Method

MECo tracks its streetlighting plant using a computerized asset management system ("AMS") that details all plant investment reported on its balance sheet (Exhs. MECo-46, at 2; DTE-1-1, Att. 1, 2). The AMS reports, on a town-by-town basis, the gross plant investment, the year of addition or "vintage year," the retirement year, the amount depreciated, the reserve ratio, and the unamortized value (Exh. MECo-46, at 2-4). The AMS includes vintage data from 1963 to the present and retirement data from 1964 to the present (Exhs. DTE 1-9; MECo-46, at 4-5).<sup>4</sup>

The Company argues that it used all known and available information when performing its purchase price calculations for Franklin and Swampscott and that its method is fair and consistent (Company Brief at 10). Because vintage data is not available prior to 1963, the Company treated unretired plant additions made prior to 1963 as if they were placed in service during 1963 (Exh. MECo-46, at 3). MECo argues that treating plant additions made prior to

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<sup>3</sup> (...continued)  
manner as the unamortized value of additions to streetlighting equipment  
(Exh. MECo-46, at 4-5; see n.2, above).

<sup>4</sup> The Company states that streetlighting equipment vintage data prior to 1963 and retirement data prior to 1964 are not available because, prior to this time, the Company's plant accounting system was decentralized in various field offices (Exh. MECo-46, at 3).

1963 in this manner was not detrimental to the Towns (Company Brief at 8-9). The Company contends that its gross plant investment can be reconciled to its financial statements and includes all additions that have not been retired (Company Brief at 9, citing Exh. Towns 1-11).

Because retirement data are not available prior to 1964, MECo only included the unamortized value of identifiable retirements from 1964 through 2003 (Exhs. MECo-46, at 4-5; MECo-43; MECo-44). MECo argues that the omission of pre-1964 retirement data is not detrimental to the Towns (Company Brief at 8-9). The Company analyzed all available retirement data from 1964 to 2003 (Exhs. MECo-43; MECo-44). Negative values for retirements (i.e., net credits to the pricing calculation) were found only in one year for Swampscott and four years for Franklin (id.; MECo-46, at 7-8). Therefore, MECo contends that it is unlikely that the inclusion of pre-1964 retirement data, if such data were available, would decrease the purchase price of the streetlighting equipment (Company Brief at 8-9, citing Exh. MECo-46, at 7-8).

B. The Towns' Dispute

The Towns dispute MECo's treatment of unretired plant additions made prior to 1963 (Towns' Brief at 3-4). The Towns argue that MECo's method does not account for any depreciation accumulated prior to 1963 when calculating the unamortized value of the streetlighting plant (Towns' Brief at 29). As a result, the Towns assert that the Company's method increases the purchase prices for the streetlighting equipment (id.).

The Towns argue that the starting point for computing accumulated depreciation on streetlighting plant for purposes of determining its unamortized value is the year in which such plant was originally placed in service (Towns' Brief at 3, citing Petition of the Towns of Edgartown, Harwich, and Sandwich, D.T.E. 01-25 (2001)). Instead of the Company's method, the Towns argue that MECo should be required to use a reasonable estimate of the carry-over depreciation reserve in 1963 (id. at 28-30). In the absence of a better assumption, the Towns suggest that MECo should be required to use the 50 percent assumption used by Boston Edison Company in Petition of the Towns of Acton and Lexington, D.T.E. 98-89 (1998) (id. at 50).

C. Analysis and Findings

The Company has demonstrated that its gross plant investment includes all streetlighting equipment additions made in Franklin and Swampscott that have not been retired and that these values can be reconciled to the Company's financial statements without omissions (Exh. Towns 1-11). In the absence of data on streetlighting plant additions made

prior to 1963, the Company treated pre-1963 additions as if they were placed in service in 1963 (Exh. MECo-46, at 3).

The Towns instead propose to use an estimate for the carry-over reserve for depreciation associated with unretired plant additions made prior to 1963 (Towns' Brief at 29). In the absence of a better estimate, the Towns propose to use the same 50 percent estimate Boston Edison Company used to calculate the carry-over reserve for depreciation in computing the unamortized value of streetlighting equipment to be acquired by the Towns of Lexington and Acton (id., citing D.T.E. 98-89).<sup>5</sup> Unlike this proceeding, the 50 percent estimate used in D.T.E. 98-89 was stipulated to by the parties and was not an issue in dispute. The Department's silence on that issue cannot be taken as an endorsement of the reasonableness of the use of a 50 percent carry-over reserve in all cases. In the absence of any support for the reasonableness of a 50 percent estimate for MECo, we cannot adopt it to calculate carry-over depreciation reserve amounts in this case.

Regarding the pre-1963 additions to streetlighting plant, the Company based its calculations on the best available data. Most of the pre-1963 additions have been retired (Exhs. MECo-7, Att. 1A at 3-6; MECo-7, Att. 1B at 3-6). MECo's streetlight plant inventory indicates that only six of 256 items in Franklin are pre-1963 additions, and only four of 186 items in Swampscott are pre-1963 additions (id.) Therefore, the effect that further depreciation of those additions would have had on the purchase price is minimal. Accordingly, we find that the Company's treatment of pre-1963 additions is reasonable.

With respect to the Company's treatment of retirements, when calculating the unamortized value of streetlighting equipment, companies must take retirements into account to the extent that they are known. D.T.E. 01-25, at 6-7. Because retirement data prior to 1964 were unavailable, the Company included the unamortized value of all identifiable retirements, which consisted of streetlighting equipment that the Company retired from 1964 through 2003 (Exhs. MECo-46, at 4-5; MECo-43; MECo-44). This treatment is consistent with the

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<sup>5</sup> The Towns also argue that the valuation of the streetlighting equipment to be acquired for public property taxation purposes should be historically similar, if not equal, to the purchase price of these facilities (Towns' Brief at 9-11). The Company explained that the tax value of the streetlighting equipment is determined based upon depreciation studies, while the purchase price calculation does not rely upon these studies (Tr. 550-553). We find that, because depreciation studies were used in calculating the value of gross plant for tax purposes, while they were not used in calculating gross plant value for purchase price, the two amounts do not need to be the same in any given historical year.

Department's findings in D.T.E. 01-25. In addition, the Company demonstrated that the inclusion of additional retirement information prior to 1964 would likely not have reduced the purchase prices for the Towns (Exhs. MECo-46, at 7-8, Tr. 178-179). Accordingly, we accept the Company's treatment of this issue.

#### IV. Depreciation on Existing Brackets and Foundations

##### A. Summary of MECo's Method

In 1980, the Company began to record its investments in brackets in a separate account (Exh. MECo-46, at 8). In 1983, the Company began to record its investments in foundations in a separate account (id.). In previous years, the Company had commingled its investments in these items with other streetlighting plant (id.). In computing the unamortized value of the pre-1980 brackets and pre-1983 foundations, MECo treated these investments as having been placed in service for the first time in 1980 and 1983, respectively, because the original in service dates were not known (id.). The Company did not recognize any accumulated depreciation on the brackets and foundations prior to these dates (id. at 9).

The Company argues that, although its method would tend to increase the purchase prices of the streetlighting equipment by ignoring depreciation accumulated prior to 1980 and 1983, the purchase prices can only include values that are known and municipality-specific (Company Brief at 17, citing, D.T.E. 01-25). The Company claims that it does not know precisely how much depreciation may have been taken on the brackets and foundations prior to reclassifying them from mass plant accounts to their own subaccounts (Company Brief at 17). Accordingly, the Company concludes that it would be improper to incorporate any estimate of the depreciation in computing the purchase prices (id.).

##### B. The Towns' Dispute

The Towns assert that the Company's treatment of brackets and foundations has a significant effect on the purchase prices because it ignores all depreciation that was accumulated prior to 1980 and 1983, respectively (Towns' Brief at 15). The Towns contend that the majority of the brackets were most likely placed in service when incandescent streetlighting fixtures were replaced with mercury fixtures (id. at 16). For Swampscott, the Towns contend that the brackets were likely installed in 1950 (id. at 18, citing Exh. AWM-3, at 53-54; Tr. at 458).<sup>6</sup> The Towns argue that MECo should be required to assume that the brackets and foundations were installed at the same time as the fixtures they support and should

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<sup>6</sup> The Towns did not provide a similar estimate for Franklin (Towns' Brief at 18).

be depreciated accordingly (id. at 17-18). The Towns calculate the depreciation that the Company did not include on brackets and foundations totals between \$59,000 and \$104,000 (id.).

C. Analysis and Findings

In calculating the unamortized value of streetlighting equipment, the Company treated its investments in pre-1980 brackets and pre-1983 foundations as having been placed in service in 1980 and 1983, respectively. Because the Company did not recognize any accumulated depreciation on brackets and foundations prior to this date, the resulting unamortized value of the equipment is overstated.

The Company correctly states that D.T.E. 01-25 requires it to only include values that are known and municipality-specific (Company Brief at 17). MECo is, however, incorrect in its application of that rule to this case. AMS contains data on the brackets and foundations dating back to 1963 (Exhs. MECo-7; MECo-46, at 3). These data are both known and municipality-specific (id.). Although depreciation on brackets and foundations was not tracked specifically before 1980 and 1983, information is available that would allow the Company to calculate the total depreciation of each town's gross plant from 1963 to 1980 or 1983. Using these data, a reasonable estimate may be derived of how much depreciation should be taken on brackets and foundations from 1963 to 1980 and 1983, respectively. Thus it is possible for MECo to calculate a reasonable estimate of depreciation on brackets and foundations using values that are known and municipality-specific consistent with D.T.E. 01-25.

At the request of the Department, the Company calculated, for both Franklin and Swampscott, the reserve percentage as of December 31, 1979, and December 31, 1982, for all streetlighting equipment for the purpose of computing an estimated reserve for depreciation related to the transferred brackets and foundations in 1980 and 1983, respectively (RR-DTE-1).<sup>7</sup> Unlike the Towns' proposal to use an arbitrary 50 percent reserve ratio to

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<sup>7</sup> For Swampscott, the reserve percentage as of December 31, 1979 was 53 percent, resulting in an estimated reserve balance related to the transfer of brackets in 1980 of \$39,240 (RR-DTE-1). Swampscott's reserve percentage as of December 31, 1982 was 47 percent, resulting in an estimated reserve balance related to the transfer of foundations in 1983 of \$2,470 (id.). Similarly, for Franklin, the reserve percentage as of December 31, 1979 was 24 percent, resulting in an estimated reserve balance related to the transfer of brackets in 1980 of \$1,991 (id.). Franklin's reserve percentage as of December 31, 1982 was 23 percent, resulting in an estimated reserve balance related to (continued...)

determine the carry-over depreciation associated with pre-1963 plant balances, these estimates are calculated based upon company-specific data, based on the premise that the percentage depreciated of brackets and foundations at the time of their transfer in 1980 and 1983, respectively, is approximately equal to the percentage depreciated of all streetlighting equipment. We find that this is a reasonable method to estimate the reserve percentage for the purpose of calculating the purchase price of the streetlighting equipment. Accordingly, the Department directs the Company to adjust the unamortized value of the streetlighting equipment in Swampscott by \$41,710 to account for depreciation of brackets and foundations accumulated prior to 1980 and 1983, respectively. The Department directs the Company to adjust the unamortized value of the streetlighting equipment in Franklin by \$4,988 to account for depreciation of brackets and foundations accumulated prior to the 1980 and 1983, respectively.

V. Depreciation Rates Prior to 1971

A. Summary of Meco's Method

The Company used streetlighting-specific depreciation rates to calculate depreciation for the years 1971 to 2003 (Exh. DTE-2-1, Att. 1).<sup>8</sup> For years prior to 1971 when streetlighting-specific depreciation rates are not available, the Company used a four percent annual depreciation rate based on composite rates in effect during the 1960's (*id.*; Tr. at 521-523). The Company argues that the four percent depreciation rate used is appropriate because it was based on the best information available and is supported by the composite depreciation rates in effect during the 1960's which did not change dramatically over that period (Company Brief at 10, *citing* Exhs. DTE 2-1; Meco-46, at 4; Tr. at 521-523).

B. The Towns' Dispute

The Towns allege that the Company has made no effort to demonstrate that the streetlighting-specific depreciation rate of four percent assumed by the Company for years

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<sup>7</sup> (...continued)  
the transfer of foundations in 1983 of \$2,997 (*id.*).

<sup>8</sup> Meco used the following depreciation rates as reported to the Federal Energy Regulatory Commission ("FERC") in its FERC Form 1 filings: 4.0 percent from 1971 to 1974; 5.0 percent from 1975 to 1980; 4.35 percent from 1981 to 1994; 4.00 percent from 1995 to 1997; 7.44 percent in 1998; and 8.13 percent from 1999 to 2003 (Exh. DTE-2-1, Att. 1).



prior to 1971 reflects the useful life of streetlighting equipment in the Company's service territory in general, or in either town (Towns' Brief at 23). The Towns also contend that the dramatic increase in depreciation rates in the last seven years demonstrates that historical depreciation rates have been too low (id. at 24).

C. Analysis and Findings

The Department has held that the calculation of the unamortized value of streetlighting equipment should be based upon depreciation rates approved by the Department. See D.T.E. 01-25, at 6-7. These rates are used, not to represent the engineering lives of streetlighting equipment, but instead to determine that portion of a company's investment in streetlighting equipment which had not been recovered through the ratemaking process at the time of the proposed sale (id.).

The Company has shown that the four percent depreciation rate it used for years prior to 1971 is supported by the composite rates in effect during the 1960's and is based on the best information available (Exhs. DTE 2-1; MECo-46, at 4; Tr. at 519). The rates used by the Company beginning in 1971 were approved by the Department and the composite rate of four percent is based on rates that were approved by the Department (id.). Therefore, the Department finds that the Company's use of these depreciation rates is appropriate.

VI. Allocation of Price Between Town and Private Lights

A. Summary of MECo's Method

The Company is unable to differentiate the unamortized investment for streetlighting equipment between equipment that serves the Towns and that which serves private customers (Exh. MECo-47, at 12).<sup>9</sup> Because the Company must calculate the value of only that equipment which the Towns want to purchase, the Company must devise a method to calculate separate values for public and private streetlighting equipment. To address this issue, the Company allocated the unamortized value of the streetlighting equipment based on revenues generated by the various types of equipment (id. at 7-8, 9-12).<sup>10</sup> The Company argues that a

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<sup>9</sup> The Company states that AMS does not identify whether the streetlighting equipment is serving a public or private customer (Exhs. MECo-47, at 7; DTE-1-1, Att. 1, 2).

<sup>10</sup> First, MECo undertook an inventory of the streetlights and dedicated poles in Franklin and Swampscott (Exhs. MECo-47, at 6; DTE-1-1, Att. 1, 2). Each streetlight and dedicated pole in the inventory was then multiplied by the corresponding luminaire and  
(continued...)

revenue allocator is an appropriate way to recognize in the pricing process the cost differences between the various sizes and types of streetlighting equipment (Company Brief at 12, citing Exh. MCo-47, at 7).

At the request of the Department, MCo undertook several alternative allocation methods (RR-DTE-2). In one alternative method, MCo segregated the unamortized value of streetlighting equipment into six equipment categories including: incandescent fixtures; mercury vapor fixtures; sodium vapor fixtures; overhead (wood) poles; other streetlighting equipment that is found in either an overhead-served or underground-served system; and equipment that is found in an underground-served system (id., Atts. 4, 5). Then, with the same annual revenue data used in the Company's proposed method, MCo allocated the unamortized value of each category to the sizes and types of the fixtures based upon the revenue to which the unamortized value relates ("modified revenue method") (id.).<sup>11</sup>

In another alternative method offered by the Company, MCo segregated the unamortized value into the six categories described above and then allocated the unamortized value for each of the six categories individually based upon the engineering estimates for new streetlighting installations ("engineering estimate method") (RR-DTE-2, Atts. 6, 7). In the Company's view, this alternative allocation method is more precise because it accounts for vintage (Tr. at 545).

MCo states that, while revenue is a reasonable basis for an allocation method, it would not object to any of the alternative allocation options presented so long as the method was used going forward for all Company streetlighting disputes (Exh. DTE 2-2, at 2). According to the Company, this consistency will prevent municipalities from choosing the allocator that provides them the best results (Tr. at 544).

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<sup>10</sup> (...continued)  
pole charges in the Company's streetlighting tariffs to develop a revenue allocator (Exhs. MCo-47, at 7; DTE-1-1, Att. 1, 2).

<sup>11</sup> For example, MCo allocated any unamortized value in incandescent fixtures to the sizes of incandescent fixtures installed in the community (RR-DTE-2). If a particular type of fixture is not installed in the Towns, but there is either a positive or negative unamortized value, this unamortized value is included in the unamortized value of all other streetlighting equipment that is allocated across all sizes and types of streetlighting equipment (id.).

### B. The Towns' Dispute

The Towns contend that none of the Company's proposed allocation formulas accurately determine the unamortized investment allocable to the equipment to be acquired by Franklin and Swampscott (Towns' Brief at 35). The Towns maintain that, unlike MECo's proposed allocation method, the purchase price of the streetlighting facilities is inflated because it does not account for the higher cost of the post-sodium conversions,<sup>12</sup> most of which serve private customers (*id.* at 45). The Towns propose to correct for this issue by distinguishing between pre- and post-sodium unamortized values and identifying how much of the post-sodium conversion costs are attributable to public and private functions (*id.*). Based upon their analysis, the Towns propose to allocate 33 percent of unamortized value to Franklin and 27 percent to Swampscott (as opposed to the 78 percent and 92 percent, respectively, allocated by the Company) (*id.*).

### C. Analysis and Findings

Because AMS does not distinguish between streetlights serving the Towns and those serving private customers, the Company must find a way to accurately allocate unamortized value (*i.e.*, price) between the streetlighting equipment that the Towns wish to purchase and private lights that will not be purchased by the Towns. The Company proposed several allocation methods based primarily on revenue (RR-DTE-2).

The Towns contend that a revenue allocator inflates the purchase price by including a disproportionate amount of the unamortized value associated with newer equipment that the Towns do not wish to purchase (Towns' Brief at 37-38). Alternatively, the Towns propose to allocate unamortized investment to the equipment to be acquired by Franklin and Swampscott by vintage (*id.* at 38). However, because the AMS does not distinguish between public and private customers and the Company's streetlighting billing system does not contain complete vintage information, any attempt to derive an allocator based on vintage would require the use of significant, unsupported assumptions (Exh. MECo-47, at 10-12). Therefore, we decline to adopt the Towns' proposed method.

The Company contends that the use of engineering estimates is the most accurate allocation method (Tr. at 545; RR-DTE-2, Atts. 6, 7). It is not preferable, however, to use engineering estimates for the cost of new streetlighting installations because it relies on subjective judgements as to the value of the equipment. The modified revenue allocation

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<sup>12</sup> Sodium conversions are the replacement of mercury-vapor streetlight fixtures with sodium-vapor fixtures which took place in 1989 (Tr. at 453-454).

method is similar to the engineering estimates method, but does not rely on these subjective judgements (RR-DTE-2, Atts. 4, 5). In addition, the modified revenue method is more detailed and, therefore, more reliable, than the Company's initial revenue allocation proposal. Accordingly, we direct the Company to implement the modified revenue allocation method presented in response to RR-DTE-2, Atts. 4, 5.<sup>13</sup>

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<sup>13</sup> The Company has recently converted to a new computer system and going forward, MECo will no longer be able to use the modified revenue allocation method presented in RR-DTE-2, Atts. 4, 5 (Exh. DTE 2-2, Rev.). While we recognize that the Company may not, going forward, be able to use the modified revenue method, the Company can apply it in this case. Therefore, because we have determined that the modified revenue allocation method is more detailed, we direct MECo to apply it here.

VII. Conclusion

As discussed above, to calculate the purchase price: (1) we accept the Company's treatment of unretired plant additions made before 1963 and retirements before 1964; (2) the Company shall adjust the unamortized value of the streetlighting equipment in the Towns to account for depreciation of brackets and foundations accumulated between 1963 and 1980 or 1983, respectively; (3) we accept the Company's use of a four percent depreciation rate for years before 1971; and (4) the Company shall use the modified revenue method to allocate unamortized investment between public and private streetlights. We direct the Company to assign appropriate values to the Towns' streetlighting equipment based upon the findings and directives in this Order.

By Order of the Department,

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Paul G. Afonso, Chairman

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

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Judith F. Judson, Commissioner